CGB-CC-0797

MERCURY FILM & TELEVISION

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Received & Inspected

APR 8 - 2008

FCC Mail Room

March 10, 2008

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Federal Communications Commission
Attn: Commission Secretary
445 12th Street, SW
Washington, DC 20554

Dear Commission Secretary,

This is a Petition for exemption from the Closed Captioning requirements on the basis of undue burden.

Mercury Film and Television is a small production company in Palm Desert, CA, producing several paid programming shows for local, independent businesses. These programs have a run-time of 28:30 and air in the Palm Springs, CA market on the local TV stations and cable channels.

In the past year we have produced two programs for two clients. One is entitled "Your One Stop Flooring Solution" for Flooring Innovations, a locally owned carpet and flooring business. The second program is entitled, "Charles Townsend Tells All" for The Charles Townsend Collection, a locally-owned furniture store. Both of these programs were produced for about $5000 each, and succeeding updates to each program (approximately twice per month) cost the clients about $300 per update.

The updates for Flooring Innovations entail announcements of new product and new sales campaigns and marketing offers by manufacturers (e.g. DuPont Stainmaster). The updates for The Charles Townsend Collection requires new footage since inventory featured in the program is sold and new product comes in.

As of January 2008, two local, network affiliate TV stations have informed Mercury Film & Television that they are no longer exempt from the Closed Captioning requirements and that the two above-mentioned paid programs must include Closed Captioning.

Upon research about encoding the programs with Closed Captioning, Mercury Film and Television has found that the lowest rate of captioning services is $400 per program and the delivery time is at least 5 business days. This creates an undue burden on two fronts.

First, the cost of the captioning is one that cannot be billed to the clients, nor can Mercury Film and Television absorb this cost at the current rates. These two long-time clients are businesses catering primarily to the homeowner market. Recent downturns in the national economy, hitting the housing market especially hard, have caused these clients to make

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large reductions in their business expenses. Both cannot shoulder the additional cost of Closed Captioning and will cease the paid programming aspect of their advertising budget. This in turn will cause Mercury Film and Television to lose revenue dependent on these two clients.

Second, the delivery time of Closed Captioning encoding greatly diminishes the effectiveness of the clients' paid programming advertising. Often, manufacturer promotions are doled out to retailers, but only valid for a limited time. For example, Flooring Innovations received an offer from DuPont StainMaster for an anniversary sale that would allow the retailer to sell certain carpet models at a deep discount. The timing of the manufacturer's announcement to the end of the sale was a window of only three weeks. Based on the Closed Captioning encoding time, the quickest possible turnaround time would prevent Flooring Innovations from advertising this manufacturer's sale in the program for at least one-third of the promotion's timeframe. These two clients rely heavily on manufacturer promotions to attract customers. These two clients do not have control of the manufacturer's timing for releasing information about promotions. They must advertise quickly of new promotions in hopes of attracting new business. Closed Captioning encoding of their heavily-invested programs delays valuable opportunities to attract much-needed customers.

Mercury Film and Television has researched the cost of buying Closed Captioning hardware and software. The price estimate is over $15,000 and would require hiring a person on staff to operate. These are costs that Mercury Film and Television cannot afford. Mercury Film and Television also cannot fund the $400 fee to caption each program. The production fees invoiced to the clients have a thin profit margin. Closed Captioning fees are larger than the fees collected from the clients, creating a loss instead of a profit.

Although Mercury Film and Television is experienced enough to know about Closed Captioning requirements, all of the TV stations in the local market distributing the paid programs had communicated in the past that the programs were exempt from Closed Captioning. Without warning, two stations in the market communicated to MFT that all programs must be accompanied with Closed Captioning and have removed the clients' programming from the air until this matter can be resolved either by being provided a program with captions or an exemption from the FCC.

Mercury Film and Television has now adjusted its business practice to comply with the Closed Captioning requirements. Clients of new programming content airing in the Palm Springs, CA market are now informed they will be billed for Closed Captioning encoding and also informed of the one-week timeframe for content to be ready for air after production has been completed.

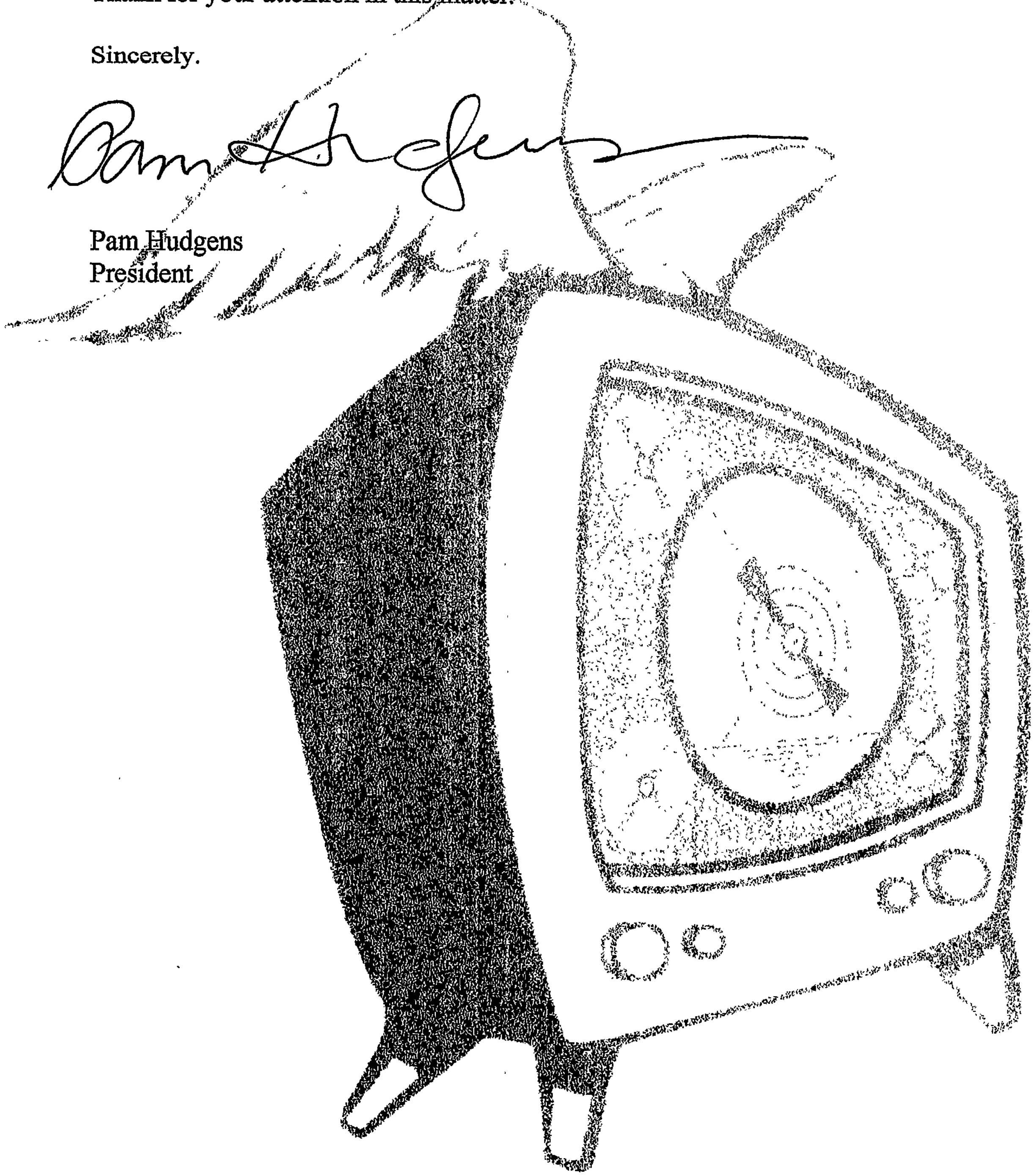
Mercury Film and Television will gladly supply any documentation that the FCC requests in determining the undue burden the Closed Captioning requirement places upon the two existing programs named above.

MERCURY FILM & TELEVISION

Thank for your attention in this matter.

Sincerely.

Pam Hudgens
President



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